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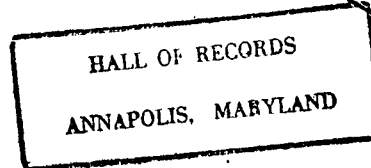
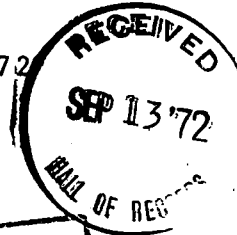
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COMMISSION REPORT NO. 3A
TO THE LEGISLATIVE COUNCIL

TITLE 13 - COURTS AND JUDICIAL PROCEEDINGS ARTICLE

As indicated in the outline of the proposed Courts Article contained in our Report No. 3 to the Legislative Council, Title 13 of the proposed article deals with court supporting agencies. These include the State Administrative Office of the Courts, the Administrative Office of the Courts of the Seventh Judicial Circuit, the State Reporter, the Standing Committee on Rules, and the Commission on Judicial Disabilities.

As a general rule, this short title makes only stylistic changes in the present statutes dealing with the agencies in question. It excludes statutes pertaining to the Board of Law Examiners, since these provisions deal with licensing and have been tentatively allocated to the proposed Article on Occupations and Professions.

As will be observed from the outline attached to the second staff redraft, 6/21/72, Title 13 brings together the statutes dealing with various agencies which assist the courts administratively, through publication of decisions, drafting of rules, etc.

Most of these provisions now appear in Article 26 of the Code, except that those dealing with the State reporter are presently found in Article 80, and the statutes pertaining to the Commission on Judicial Disabilities are found in Article 40.

Subtitle 1.

This subtitle contains the present provisions of law dealing with the Administrative Office of the Courts. The only changes are stylistic, except that in Section 13-101(c) the prohibition against practice of law is somewhat expanded. The present statute prohibits only practice of law in the State. The Commission was of the view that the director and other employees of the Administrative Office are engaged full-time in their employment, and would not have the time to practice law in any jurisdiction while so employed.

The language of Section 13-102(c), dealing with the Administrative Office of the Courts of the Seventh Judicial Circuit is now substantially identical to Section 13-101(c). Present law permits the Director of the Seventh Circuit Administrative Office to practice if permitted to do so by the judges of the circuit. The Commission thought that this prohibition against practice should be the same as that for the State director. It consulted with the judges of the Seventh Circuit, who agreed with this approach.

Subtitle 2 - State Reporter.

This subtitle merely makes stylistic changes in the present provisions of Article 80, as amended by Chapter 105, Acts of 1972.

Subtitle 3 - Standing Committee on Rules.

This subtitle makes only stylistic changes in the present

provisions of Article 26 dealing with the Court of Appeals Standing Committee on Rules of Practice and Procedure.

Subtitle 4 - Commission on Judicial Disabilities.

When the Commission on Judicial Disabilities was originally established, final removal power was vested in the General Assembly. Consequently, the statutory implementation of the Constitutional provision was allocated to Article 40 of the Code. In 1970, Article IV, Section 4B was amended to place final authority in the Court of Appeals. Subtitle 4 reflects this change. The other changes are stylistic, except that what is presently Article 40, Section 45(5) is proposed for repeal.

This merely grants the Court of Appeals rule-making power with respect to procedures to be followed by the Commission, but a statutory grant of such power is unnecessary, since Article IV, Section 4B(a) presently provides that "The Court of Appeals shall prescribe by rule the means to implement and enforce the powers of the Commission and the practice and procedure before the Commission."

A Possible Area for Substantive Study.

The Commission suggests to the Legislative Council the desirability of considering adoption of a State-wide statute providing enabling legislation for establishment of administrative offices in various circuits or counties. The only such statute presently contained in public general laws is that pertaining to the administrative office in the Seventh Circuit.

A court administrator for the Supreme Bench of Baltimore City was provided by Chapter 224, Laws of 1966, now codified with the

Public Local Laws of Baltimore City. Baltimore County and Montgomery County have provided court administrators without enabling legislation.

The Commission does not believe that enabling legislation is necessary for the establishment of a county or circuit court administrator. However, such legislation could establish a useful pattern which would encourage the creation of administrators in various jurisdictions. It may be useful to make the local administrator directly responsible to the circuit or county administrative judge and also to provide that the local administrator be an integral part of the office of the State Director of the Administrative Office of the Courts. This would be consistent with the trend towards a unified State court system.

Obviously, a detailed study of this proposal is beyond the scope of formal code revision, but it might be a fruitful field for study by the Legislative Council.

A Note as to Style.

Please note that the style of the second staff redraft of Title 13 does not conform to the computer symbology which will be used in 1973 bills. The draft was prepared before final decisions as to such symbology had been made. Thus, new matter is shown by underscoring and deletions from present law by enclosure in brackets.



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Director

WHA:jc
Distribution A-3.